

REMARKS

Claims 1-32 are pending in this Application. Claims 1 and 32 are amended with this Response.

Objections to the Specification

The disclosure is objected to for alleged informalities set forth at item 2 of the Office Action. The Examiner specifically cites MPEP 2181, which states that “Even if the disclosure *implicitly* sets forth the structure, materials, or acts corresponding to a means- (or step-) plus-function claim element in compliance with 35 U.S.C. 112, first and second paragraphs, the USPTO may still require the applicant to amend the specification pursuant to 37 CFR 1.75(d) and MPEP §608.01(o) to explicitly state, with reference to the terms and phrases of the claim element, *what structure, materials, or acts perform the function recited in the claim element.*” (emphasis added). Applicant respectfully traverses the Examiner’s application of this requirement.

Applicant respectfully notes that the above section of the MPEP is directed to “the situation in which the description only implicitly or inherently sets forth the structure, materials, or acts corresponding to a means- (or step-) plus-function.” In other words, if Applicant’s lid was *absent* from the disclosure, and therefore not explicitly described via a specific term (i.e., ‘lid’), but instead would only be *inherently* recognized by one of ordinary skill in the art to be a structure that performs the pertinent function, then the Examiner may require Applicant to amend the Specification to explicitly state the term “lid” (i.e., the structure, material, or act performing the function recited in the claim element). Usage of the term “may” does not render Applicant’s explicitly disclosed structure to be an implied structure. Requiring an explicitly stated structure is different from requiring that structure to perform a function.

This is supported by the portion of MPEP 2181 that states “If the corresponding structure, material or acts are described in the specification in specific terms (e.g., an emitter-coupled voltage comparator) and one skilled in the art could identify the structure, material or acts from that description, then the requirements of 35 U.S.C. 112, second and sixth paragraphs are

satisfied. See *Atmel*, 198 F.3d at 1382, 53 USPQ2d 1231.” In this Application, the lid is “described in the specification in specific terms,” and “one skilled in the art could identify the structure... from that description.” Accordingly, the requirements of 35 U.S.C. 112, second **and** sixth paragraphs are satisfied.

With the above said, Applicant respectfully notes that claim 32 has been amended to remove the term “may” to avoid any 112 second paragraph rejection for indefiniteness.

Rejections under 35 U.S.C. §103(a)

Claims 1-5, 7, 9, 10, 17-24, 26, 31, and 32 have been rejected under 35 U.S.C. §103(a) as being obvious over United States Patent No. 4,820,274 to Choksi (“Choksi” hereinafter) in view of United States Patent No. 6,438,802 to Beeman (“Beeman” hereinafter) or United States Patent No. 5,487,572 to Combot-Corrau (“Corrau” hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant’s amended claim 1 recites:

“said line retaining part comprising at least one groove for accommodating the line, said groove being open and configured to receive the line via a longitudinal opening defined by said retaining part,...wherein said at least one groove is designed with flexible retaining means for retaining the line;... wherein the flexible retaining means for retaining the line comprises a plurality of flexible parts protruding into the groove, and wherein said longitudinal opening is configured to remain open while the line is releasably retained in said groove.”

Neither Choksi nor Beeman, taken alone or in combination, teach flexible parts protruding into the groove. The Examiner concedes this point with regards to Choksi. With regards to Beeman, Applicant respectfully notes that the allegedly flexible parts 10 are not stated as being flexible at any point in Beeman (though Beeman does include flexible-type elements, such as the cord or tubing 28, which are *explicitly* assigned flexible-type modifiers such as “resilient”). In fact, these teeth 10 are taught to be part of a “molded,” “single unit” body 14 that is rigidly affixed to another molded body 18 via nuts and bolts 16 and 20 (please see column 8, lines 5-16, column 8, lines 51-55, and Figures 1a-2a). This rigid affixing precludes flexibility of any portion of the “molded,” “single unit” body 14, including the teeth 10 of the groove 6.

In addition, neither Choksi nor Beeman, taken alone or in combination, teach a groove with a longitudinal opening configured to remain open while the line is releasably retained in the groove. On the contrary, Choksi teaches retention of the tube 22 and cable 23 via a cover 32 that covers the only longitudinal opening of the device (please see Figure 7 in particular), and Beeman teaches retention via a rigid affixing of the bodies 14 and 18 (please see Figure 6 in particular).

Accordingly, for at least the above reasons Applicant respectfully submits that the proposed combination of Choksi and Beeman does not teach every element of Applicant’s claims 1-5, 7, 9, 10, 17-24, 26, 31, and 32. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 1-5, 7, 9, 10, 17-24, 26, 31, and 32 with respect to the proposed combination of Choksi and Beeman. Since the proposed combination of Choksi and Beeman fails to teach or suggest all of the limitations of claims 1-5, 7, 9, 10, 17-24, 26, 31, and 32, and since Beeman is not related to the medical field, clearly, one of ordinary skill at the time of Applicant’s invention would not have a motivation to combine the reference, or a reasonable likelihood of success in forming the claimed invention by combining. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Referring now to the proposed combination of Choksi with Corrau, Applicant respectfully

asserts that neither Choksi nor Corrau, taken alone or in combination, teach flexible parts protruding into the groove. The Examiner concedes this point with regards to Choksi, and the allegedly flexible parts 22 of Corrau do not protrude into the groove or even contact the tube 18 (these parts 22 are shoulders that contact the portion 10; please see Figure 4).

In addition, neither Choksi nor Corrau, taken alone or in combination teach a groove with a longitudinal opening configured to remain open while the line is releasably retained in the groove. On the contrary, Choksi teaches retention of the tube 22 and cable 23 via a cover 32 that covers the only longitudinal opening of the device (please see Figure 7 in particular), and Corrau teaches a continuous, circular washer 13 that is fully enclosed and includes no longitudinal opening whatsoever.

Accordingly, for at least the above reasons Applicant respectfully submits that the proposed combination of Choksi and Corrau does not teach every element of Applicant's claims 1-5, 7, 9, 10, 17-24, 26, 31, and 32. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 1-5, 7, 9, 10, 17-24, 26, 31, and 32 with respect to the proposed combination of Choksi and Corrau. Since the proposed combination of Choksi and Corrau fails to teach or suggest all of the limitations of claims 1-5, 7, 9, 10, 17-24, 26, 31, and 32, and since Corrau is not related to the medical field, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to combine the reference, or a reasonable likelihood of success in forming the claimed invention by combining. Thus, here again, *prima facie* obviousness does not exist. *Id.*

It should be further noted that the Corrau washer necessitates axial insertion of the cord, and thus precludes a sideways or longitudinal insertion of a cord into the groove. Accordingly, if Choksi were to be modified to include the washer 13 of Corrau, "sideward top reception of the...tubing 22" would not be possible. Accordingly, such a modification would render the Choksi device inoperable for its intended purpose of "sideward top reception of the...tubing 22" (Please see column 2, lines 45-50), which would further render the modification improper under MPEP 2143.01V.

Conclusion

Applicant believes that all of the outstanding objections and rejections have been addressed herein and are now overcome. Entry and consideration hereof and issuance of a Notice of Allowance are respectfully requested.

Applicant hereby petitions for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Office is invited to contact applicant's attorneys at the below-listed telephone number concerning this Amendment or otherwise regarding the present application.

Respectfully submitted,
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